

PATENT COOPERATION TREATY

From the INTERNATIONAL SEARCHING AUTHORITY

PCT
 WRITTEN OPINION OF THE
 INTERNATIONAL SEARCHING AUTHORITY
 (PCT Rule 43bis.1)

To:
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Applicant's or agent's file reference

414/04404

International application No.

International filing date (day/month/year)

Priority date (day/month/year)

04 February 2005 (04.02.2005)

05 February 2004 (05.02.2004)

International Patent Classification (IPC) or both national classification and IPC

IPC(7): A61H 1/02 and US Cl.: 601/5, 33

Applicant

REABILITY INC.

Date of mailing
 (day/month/year)

03 FEB 2006

FOR FURTHER ACTION

See paragraph 2 below

1. This option contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☒ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/US

Mail Stop PCT, Attn: ISA/US
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, Virginia 22313-1450

Facsimile No. (571) 273-3201

Form PCT/ISA/237 (cover sheet) (April 2005)

Date of completion of this opinion

11 January 2006 (11.01.2006)

Authorized officer

Danton DeMille

Telephone No. (571) 272-3700

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

Box No. 1 Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of ☒ the international application in the language in which it was filed ☐ a translation of the international application into _____, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
- a. type of material ☐ a sequence listing ☐ table(s) related to the sequence listing
- b. format of material ☐ on paper ☐ in electronic form
- c. time of filing/furnishing ☐ contained in the international application as filed. ☐ filed together with the international application in electronic form. ☐ furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

Box No. IV Lack of unity of invention

1.

☒

In response to the invitation (Form PCT/ISA/206) to pay additional fees the applicant has, within the applicable time limit:

☐

paid additional fees

☐

paid additional fees under protest and, where applicable, the protest fee

☐

paid additional fees under protest but the applicable protest fee was not paid

☒

not paid additional fees

2.

☐

This Authority found that the requirement of unity of invention is not complied with and chose not to invite the applicant to pay additional fees.

3.

☐

This Authority considers that the requirement of unity of invention in accordance with Rule 13.1, 13.2 and 13.3 is complied with

☒

not complied with for the following reasons:

See the lack of unity section of the International Search Report(Form PCT/ISA/210)

4. Consequently, this opinion has been established in respect of the following parts of the international application:
- ☐

all parts.
- ☒

the parts relating to claims Nos. 1-8

WRITTEN OPINION OF THE
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Box No. V Reasoned statement under Rule 43 bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

I. Statement

Novelty (N)

Claims NONE YES
Claims 1-8 NO

Inventive step (IS)

Claims NONE YES
Claims 1-8 NO

Industrial applicability (IA)

Claims 1-8 YES
Claims NONE NO

2. Citations and explanations:

Claims 1-8 lack novelty under PCT Article 33(2) as being anticipated by Erlandson. As broadly claimed, Erlandson teaches a frame 10, an actuator 12 that includes a movement mechanism capable of applying a force that interacts with a motion of the patient's limb in a volume of at least 30 cm. The program in which selected to perform an exercise routine would prevent substantial motion in any point in any direction that is not in the desired exercise routine. A joint 34 allows multiple relative placements of the end effector. The device includes at least one sensor 36 to report the location of the joint.

Claims 1-8 meet the criteria set out in PCT Article 33(4), and thus have industrial applicability because the subject matter claimed can be made or used in industry.

NOTES TO FORM PCT/ISA/220

These Notes are intended to give the basic instructions concerning the filing of amendments under Article 19. The Instructions under that Treaty. In case of discrepancy between these Notes and those requirements, the latter are applicable. For more detailed information, see also the *PCT Applicant's Guide*, a publication of WIPO.

In these Notes, "Article," "Rule" and "Section" refer to the provisions of the PCT, the PCT Regulations and the PCT Administrative Instructions, respectively.

INSTRUCTIONS CONCERNING AMENDMENTS UNDER ARTICLE 19

The applicant has, after having received the international search report, one opportunity to amend the claims of the international application. It should however be emphasized that, since all parts of the international application (claims, description and drawings) may be amended during the international preliminary examination procedure, there is usually no need to file amendments of the claims under Article 19 except where, e.g., the applicant wants the latter to be published for the purposes of provisional protection or has another reason for amending the claims before international publication. Furthermore, it should be emphasized that provisional protection is available in some States only.

What parts of the international application may be amended?

Under Article 19, only the claims may be amended.

During the international phase, the claims may also be amended (or further amended) under Article 34 before the International Preliminary Examining Authority. The description and drawings may only be amended under Article 34 before the International Preliminary Examining Authority.

Upon entry into the national phase, all parts of the international application may be amended under Article 28 or, where applicable, Article 41.

When?

Within 2 months from the date of transmittal of the international search report or 16 months from the priority date, whichever time limit expires later. It should be noted, however, that the amendments will be considered as having been received on time if they are received by the International Bureau after the expiration of the applicable time limit but before the completion of the technical preparations for international publication (Rule 46.1).

Where not to file the amendments?

The amendments may only be filed with the International Bureau and not with the receiving Office or the International Searching Authority (Rule 46.2).

Where a demand for international preliminary examination has been/is filed, see below.

How?

Either by cancelling one or more entire claims, including one or more new claims or by amending the text of one or more of the claims as filed.

A replacement sheet must be submitted for each sheet of the claims which, on account of an amendment or amendments, differs from the sheet originally filed.

All the claims appearing on a replacement sheet must be numbered in Arabic numerals. Where a claim is cancelled, no renumbering of the other claims is required. In all cases where claims are renumbered, they must be renumbered consecutively (Administrative Instructions, Section 205(b)).

The amendments must be made in the language in which the international application is to be published.

What documents must/may accompany the amendments?

Letter (Section 205(b)):

The amendments must be submitted with a letter.

The letter will not be published with the international application and the amended claims. It should not be confused with the "Statement under Article 19(1)" (see below, under "Statement under Article 19(1)").

The letter must be in English or French, at the choice of the applicant. However, if the language of the international application is English, the letter must be in English; if the language of the international application is French, the letter must be in French.